

REMARKS

I. Status of the Claims

Claims 31-65 and 83-87 are pending in this application, of which Claims 31, 37, 43, 48, 54, and 60 are in independent form. Claims 36, 42, 47, 53, 59 and 65 have been amended to address minor informalities. No new matter has been added.

Reconsideration of the outstanding rejections is respectfully requested pursuant to 37 C.F.R. § 1.111 in light of these remarks.

II. Rejections Over Prior Art

All of the pending claims have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0008751 (“Spurgeon”) in view of U.S. Patent No. 6,267,997 B1 (“Ream”). The status of Ream as prior art under 35 U.S.C. § 102(e) is assumed for purposes of this response, but not conceded.

IV. Argument

A. The Claimed Subject Matter

The present claims are directed to systems that enable a user to select images and transmit them over a network so that they are printed directly on confectionery products with an ink-jet printer. The invention enables consumers to customize candy with high resolution images. The system is particularly adapted to printing personalized candy in a kiosk or internet environment. All of the claims require ink-jet printing “directly on a confectionery product.” A variety of confectionery products are contemplated, including sugar shelled candy such as M&M’s® Milk Chocolate and Peanut Chocolate Candies.

Although ink-jet printing is widely known, high resolution ink-jet printers have not previously been used for printing on edibles. Printing of high resolution images on pharmaceutical tablets, and the like, has usually been accomplished with pad printing, offset rollers, or other contact printing methods. While continuous jet ink-jet printheads have been used to print indicia on fruit and other edibles, these are low resolution printing methods. Continuous jet printheads are not capable of achieving the high resolution images that may be obtained with a drop-on-demand ink-jet printhead.

The further innovation described herein is a computer network system that comprises a first computer with which images are selected by the user, a second computer which receives that information and an ink-jet printer that can print directly on a confectionery item using that digital information. Such a network has not heretofore been combined with an ink-jet printer adapted for printing directly on confectionery items.

B. The Prior Art

Spurgeon is directed to a “system for creating a decorative edible item from a selected image” (see Abstract), and the image may be selected from, or uploaded to, a network (paragraph [0019]). However, the printing is performed on transfer sheets using a conventional ink-jet printer.

Spurgeon maintains that the transfer sheets are a critical aspect of the invention. At paragraph [0065], Spurgeon says, “[a] critical feature of the system 10 of the present invention is the edible media on which the image is printed. . . . the fondant [coating of the transfer sheet] must be of sufficient strength to be bent and manipulated through the conveying path of the printer.” At paragraph [0018], Spurgeon says, “since the

edible media is relatively thin and sturdy, it can be transported separately from the food product to minimize damage to the decorations.”

Moreover, in the description of the prior art, Spurgeon clearly distinguished systems in which printing is performed directly on a food product.

These systems [the prior art systems] also produce the decorations and images directly onto the food product. Since these food products are produced at the bakery, the decorated food product must then be transported to the event. Many times the decorated food product is damaged in transit. Also, this increases the expense many times in transporting the entire decorated food product. (See paragraph [0008]).

Thus, an important aspect of the network disclosed in Spurgeon is that the printer is a conventional ink-jet printer which prints on transfer sheets, which may be remote from the edible product. Spurgeon does not disclose the elements of the network claimed, because he does not disclose a printer that prints directly on confectionery items, and there is no motivation to structure such a network, because Spurgeon teaches that it is desirable to avoid printing directly on edibles.

Ream, on the other hand, discloses an apparatus for printing with edible ink on sheets of chewing gum. The printing apparatus is an offset printer, so the designs cannot be changed by the consumer. Therefore, the apparatus in Ream is not configurable in a network to permit printing confectionery items customized by the consumer. The printer device described at col. 9, line 13 to col. 10, line 11 is clearly an offset printer, comprising a design roller engraved with the image to be printed. Thus, even if the combination were made as suggested by the Examiner, there is no disclosure in the prior art cited by the Examiner of “an ink-jet printer adapted to receive the image data from the

second computer and print directly on a confectionery product”, as required in the present claims.

Ream discloses that “while the present description will reference an example of a suitable printing machine 24, the inventors intend such other embodiments to fall within the scope of the present invention.” This generic reference is, of course, insufficient to enable the practice of high resolution ink jet printing on edibles. It is well settled that to render a later invention unpatentable for obviousness, the prior art must be enabling for the later invention. In re Kumar, No. 04-1074, slip op. at * 12 (Fed. Cir., August 15, 2005), *citing* Beckman Instruments, Inc. v. LKB Produkter AB, 892 F.2d 1547, 1551 (Fed. Cir. 1989).

In summary, the prior art does not disclose a networked system that allows a consumer to select images that are transmitted via a computer network and printed directly on a confectionery product with an ink-jet printer. The primary reference, Spurgeon, teaches the use of a computer network to select and transmit images, but that reference contains the significant limitation that printing is on edible transfer sheets, not directly on edibles. Moreover, the edible transfer sheets are clearly critical to the invention, so that the motivation is not found in the reference to depart from the transfer sheet technology. Ream, on the other hand, teaches a printer that prints on edibles, but it is not an ink-jet printer and could not be incorporated into a computer network for printing consumer-customized candy.


CONCLUSION

For at least the foregoing reasons, applicants submit that the claims as amended are allowable over the art of record and respectfully request that the application be passed to issue.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should be directed to our address given below.

Respectfully submitted,



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